

**UNIT
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, New York 10007-1866**

Date of Notice: August 14, 2012

Public Notice Number: 2012- 32

Comment Period: Thirty (30) days after issuance of this Public Notice

Action: Notice of Proposed Assessment of a Clean Water Act
Section 309(g) Class II Administrative Penalty, and
Opportunity to Comment

The U.S. Environmental Protection Agency (EPA) is authorized under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. §1319(g), to assess a civil penalty after providing the person subject to the penalty with notice of the proposed penalty and the opportunity for a hearing, and after providing interested members of the public with notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g) of the CWA, any person who violates Section 301 of the CWA, may be assessed a Class II civil penalty of up to \$177,500 by EPA. Class II proceedings for Section 309(g) of the CWA are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits" (CROP), which have been codified in the Code of Federal Regulations as Title 40, Part 22. The Code of Federal Regulations and the Federal Register are available at most libraries and the EPA internet site www.epa.gov.

Section 22.13(b) of the CROP sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings where the parties agree to settlement of one or more causes of action. This is accomplished through issuance of a consent agreement and final order pursuant to Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The subject penalty assessment noticed herein follows the procedures set forth in Section 22.13(b).

The procedures by which the public may submit written comments on a proposed Class II penalty assessment or participate in a Class II penalty proceeding are set forth in Section 22.45(c) of the CROP. The deadline for submitting comments on a proposed Class II penalty assessment is thirty (30) days after issuance of the public notice.

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), EPA is hereby providing notice to the public of the following proposed Class II administrative penalty assessment.

Case Name: In the Matter of Betterroads Asphalt Corporation

Docket Number: CWA-02-2012-3457

Proposed penalty: \$60,000.00

Name and address of Respondent: Betterroads Asphalt Corporation
P. O. Box 21420
San Juan, Puerto Rico 00928-1420

Location of alleged violations:	Betterroads Asphalt Corporation, Cupey Facility State Road No. 845, Km. 1.6 Cupey Bajo Ward Rio Piedras, Puerto Rico 00928
Receiving Body of Water:	Guaracanal Creek
Nature of alleged violation:	Unauthorized discharges of storm water associated with industrial activity under Respondent's individual National Pollutant Discharge Elimination System (NPDES) permit, in violation of CWA Sections 301 and 402.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Consent Agreement and proposed Final Order, or review the public record for this proceeding or other documents related to this proceeding, should contact the enforcement case manager, Héctor Ortiz, at USEPA, Caribbean Environmental Protection Division, City View Plaza II – Suite 7000, 48 RD, 165 Km 1.2, Guaynabo, Puerto Rico 00968 - 8069, Tel.: (787) 977-5883, Fax: (787) 289-7982 and e-mail: ortiz.hector@epa.gov. The public record for this proceeding is at the address given above, and is available for public inspection during business hours.

TO COMMENT: Persons wishing to comment upon the proposed penalty assessment should direct comments to Ms. Karen Maples, Regional Hearing Clerk,

U.S. EPA, Region 2, 290 Broadway, 16th Floor, New York, NY 10007-1866, with a copy of such correspondence to Mr. José A. Rivera at the address given above.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to forty (40) days after issuance of this notice.

Dated: August 14, 2012

José C. Font, Acting Director

Caribbean Environmental Protection Division